IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36362 of 2007(D)

PETITIONER:

V. GOVINDAN, S/O. KRISHNAN NAIR,
SATHYANILAYAM, AMBEDHKAR ROAD, VENNALA P.O.,
KOCHI-682 028.

BY ADV. SRI.N.RAGHURAJ
SMT.K.AMMINIKUTTY

RESPONDENTS:
----

1. THE DISTRICT COLLECTOR, ERNAKULAM.

2. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM.

3. THE VILLAGE OFFICER,
EDAPPALLY SOUTH VILLAGE, ERNAKULAM.

4. LIC HOUSING FINANCE LTD.,
IYYATTIL JUNCTION, CHITTOOR ROAD, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD
SRI.R.S.KALKURA FOR R4

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 36362 OF 2007 D
==========

Dated this the 13th day of December, 2007

J U D G M E N T

Petitioner approached this court complaining that the 4th respondent, with the assistance of the other respondents, was trying to dispossess him forcefully. It was his contention that there were no proceedings initiated under the Securitisation Act and that despite this he was being attempted to be dispossessed.

2. From the submissions made on behalf of the 4th respondent, it is obvious that petitioner had availed of two loans mortgaging his property in Ernakulam and another plot of land in Palakkad. There was default committed and therefore OS 522/05 and 523/05 were filed by the 4th respondent, which were decreed by the Court. It is stated that even thereafter since the default continued, proceedings had to be initiated under the Securitisation Act and notice under Section 13(2) was served on the petitioner. It is thus evident that proceedings were initiated and the attempt to take possession was also in pursuance thereof.

3. Now in view of these facts, petitioner limits his

submission to give him a breathing time so that he can dispose of his property in Cochin and liquidate his liability. He submits that he has already contracted for the sale of his property and will be getting a substantial payment soon as advance.

4. I heard the learned counsel for the 4th respondent also in this matter.

5. Having regard to the submissions that are made, I am satisfied that the petitioner have made out a case for atleast an instalment facility for liquidating the liability.

6. Accordingly, I dispose of this writ petition with the following directions.

1) Before 24th of December, 2007, petitioner shall, towards his liability to the 4th respondent, remit an amount of Rs.3,00,000/- (Rupees three lakhs).

2) Subject to payment as above, proceedings initiated against the petitioner under the Securitisation Act will stand deferred.

3) The balance amount that is due to the 4th respondent shall be paid by the petitioner in three equal monthly instalments, first of which will be paid on 20th of January, 2008

and the subsequent instalments will be payable on 20th of February and 20th of March 2008.

4) If the petitioner commits default in discharging the total liability as above, the 4th respondent will be entitled to continue the proceedings, without further notice.

ANTONY DOMINIC, JUDGE.

Rp